IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18492 of 2004

Between:

1.Kamalamma, W/o Venkata Ramana Reddy, Pujari
R/o Chittoor
2.K.Krishnamma, W/o Krishna Reddy, Pujari
R/o Chittoor

..... PETITIONERS

AND

1 The Commissioner of Endowments, Endowments Department, Tilak Road, Abids, Hyderabad
2 The Assistant Commissioner, Endowments, Endowments Department, Chittoor
3 N.Venkateswarlu, S/o Narayanaswamy,
R/o 114/A, Patnool Street, Tirupathi, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the second respondent in issuing the Telegram message dated 7-3-2004 directing us to permit the 3rd respondent to render service in the Temple of goddess Tallapaka Gangamma under threat of dire consequences, is clearly ultra vires of his powers under Act 30 of 87 and also violative of Section 35(2) of Act A.P.30 of 87 apart from offending the custom and usage and Sampradayam of the temple specified under Section 13 and 142 of A.P.30/87 and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.M.DORAI RAJ

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: --

The Court at the admission stage made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.18492 OF 2004

ORAL ORDER :

The petitioners seek a declaration that the action of the second respondent – Assistant Commissioner of Endowments, Chittoor in issuing the telegram dated 07-03-2004 directing the petitioners to permit the third respondent to render Archakatvam service in the temple of Goddess Tallapaka Gangamma under threat of dire consequences, is arbitrary and illegal and also violative of Section 35(2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act').

It is pleaded that the petitioners are sisters belonging to Kaikala Reddy family and they are the successors of one Mr. Kaikala Krishna Reddy. It is also pleaded that Kaikala Reddy family is the recognized Mirasi holders in Tirumala Tirupati Devasthanams both at Tirupati and Tirumala and the said service is very ancient and well recognized for the purpose of Mirasidars. It is further stated that the Archakatvam service, in the temple of Goddess Tallapaka Gangamma, has been the hereditary since the times immemorial and the method and manner of worship are specific and only the

members of Kaikala Reddy family are entitled to render Archakatvam. It is also contended that since they are rendering service as on the date of commencement of the Act, they are entitled to continue as Archakas in terms of Section 34(2) of the Act, which provides that the hereditary Mirasidars, who are rendering service on the date of commencement of the Act, shall continue to hold such office or post on payment of only such emoluments and subject to such conditions of service referred to in Sub-sections (3) and (4) of Section 35 of the Act. While so, the second respondent has issued the impugned telegram directing the petitioners to allow the third respondent to render Archakatvam. Aggrieved by the same, this writ petition is filed contending that the said action of the second respondent is arbitrary and illegal and not in accordance with the provisions of the Act.

I have heard the learned Counsel for the petitioners and perused the material on record.

According to the own version of the petitioners, the second respondent passed an order dated 25-02-2003, on the basis of which the third respondent attempted to interfere with the Archakatvam service of late Kaikala Krishna Reddy. The third respondent also filed O.S.No.613 of 2004 on the file of the Court of the Principal Junior Civil Judge, Tirupati seeking permanent injunction against the late Kaikala Krishna Reddy from interfering with Archakatvam service and admittedly the said suit is pending. It also appears that O.S.No.1390 of 2002 filed by one Kaikala Murali in the Court of the Addl. Junior Civil Judge, Tirupati seeking permanent injunction restraining the petitioners from interfering with his possession of Kaikala Mandapam is also pending. Thus, it is clear that there is a serious dispute with regard to the rights of Archakatvam in the temple in question. Nothing has been placed before this Court to show that the petitioners were rendering Archakatvam on the date of the commencement of the Act. Even the impugned telegram dated 07-03-2004 was issued in the

name of Krishna Reddy describing him as Archaka of the temple in question. As a matter of fact, a reading of the averments in the affidavit filed in support of the writ petition does not disclose any cause of action for this writ petition, filed on 07-10-2004, challenging the impugned telegram dated 07-03-2004. What happened after the said telegram was issued in the month of March, 2004 is not known. In the absence of any material either to substantiate the plea of the petitioners that they were rendering service on the date of commencement of the Act or to make out any cause of action for filing the writ petition and particularly keeping in view that the matter involves several disputed questions of fact and civil suits are pending before the competent Courts having jurisdiction, this writ petition cannot be entertained and the relief as prayed for cannot be granted.

In the circumstances, the Writ Petition is disposed of leaving it open to the petitioners to make an appropriate representation before the first respondent – Commissioner of Endowments, Hyderabad for redressal of their grievance that the alleged telegram issued by the second respondent is unsustainable. If any such representation is made, the first respondent may pass appropriate orders in accordance with law after hearing the petitioners as well as the third respondent as expeditiously as possible preferably within a period of eight weeks from the date of such representation from the petitioners. No costs.

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03rd November, 2004.

vgb

To

1 The Commissioner of Endowments, Endowments Department, Tilak Road, Abids, Hyderabad

2 The Assistant Commissioner, Endowments, Endowments Department, Chittoor.

3 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT).

4 2CD copies.